

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: By **CHAIRMAN JERRY O'NEIL**, on February 12, 2003 at 3:15 P.M., in Room 317-A Capitol.

ROLL CALL

Members Present:

Sen. Jerry O'Neil, Chairman (R)
Sen. Duane Grimes, Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Brent R. Cromley (D)
Sen. Bob DePratu (R)
Sen. John Esp (R)
Sen. Dan Harrington (D)
Sen. Trudi Schmidt (D)

Members Excused: Sen. Emily Stonington (D)

Members Absent: None.

Staff Present: Dave Bohyer, Legislative Branch
Andrea Gustafson, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 51, 2/6/2003; HB 121, 2/6/2003
Executive Action: HB 51; HB 121

HEARING ON HB 121

Sponsor: REP. EDITH CLARK, HD 88, Sweetgrass

Proponents: Mick Robinson, Department of Public Health & Human Services (DPHHS)

Opponents: None.

Opening Statement by Sponsor:

REP. EDITH CLARK, HD 88, Sweetgrass, said HB 121 was brought at the request of the Department of Public Health and Human Services. It was intended to simplify the accounting process for Medicaid collections that are related to services provided at Montana State Hospital, which was in Warm Springs and at Montana Mental Health Nursing Care Center in Lewistown. The bill also removes the outdated references to the now defunct mental managed care system. The elimination of Section 1, Part 3 of the bill, removes references to payment from the managed care contractor. The elimination of Section 1, Part 4 removed references to the Mental Health Managed Care program. It allowed the Medicaid payments for the services provided by the hospital and the nursing care center, to be handled in the same manner as all the other payments for services provided by these facilities. Section 1, Part 1 would require all payments for services provided by the state hospital and the Mental Health Nursing Care Center be deposited in a state's special revenue account until there was sufficient revenue to satisfy the state hospital bond requirements. Any additional revenue would be transferred to the general fund. There would be no Medicaid factor in the general fund because the appropriation for the addicted and mental disorders would go right to DPHHS. After the debt was satisfied, the remaining funds would go into the general fund and would then be appropriated to Addictive and Mental Disorders.

Proponents' Testimony:

Mick Robinson, DPHHS, Administrator of the Fiscal Services Division, passed out a before and after revenue and expenditure flowchart. **EXHIBIT (phs31a01)** Mr. Robinson reiterated testimony from REP. CLARK, that the control is placed in Subsection 1. He said it was the way in which all the revenue was to be handled from all the other institutions, with the exception of the Veteran's home. The revenue that was collected from the patients would flow into the general fund. In the flow chart, it showed in the top that the required statutory bond payment was already there to satisfy the yearly payment that had to be made first.

Under present law, the dollars that came in after the bond payment, the Medicaid collections, would then be flowing into a federal special revenue account. Through the appropriation process it was designated towards managed mental health, which no longer existed in the same form as it was when the statute was in place. From there it flows into the general fund. **Mr. Robinson** said what was being learned was that second step within the process, as collections were being made from the two institutions, the amount that goes to paying off the bonding would be reserved for that payment. Any revenue collected above that amount would go into the general fund. It streamlined the accounting process. It eliminated the federal special revenue account, which did not make any sense as to why it was in place. The bill was designed to simplify the accounting process and help the accounting within the DPHHS. The fiscal note had no impact on the general fund as a result of the change. There was one amendment made in the House, which was an amendment to the effective date. The department needed to make sure this started at the beginning of the fiscal year so would not adversely affect the budget year in terms of appropriations. It was a simple bill that passed the House with a unanimous vote on both second and third reading.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

Closing by Sponsor:

REP. CLARK said it was to simplify the accounting process and urged support in the bill.

HEARING ON HB 51

Sponsor: REP. EDITH CLARK, HD 88, Sweetgrass

Proponents: Mary Dalton, DPHHS, Quality Assurance Division
Rose Hughes, MT Health Care Association (MHCA)
Betty Beverly, MT Senior Citizen Association (MSCA)
Pat Harper, AARP-MT
Sami Butler, MNA
Casey Blumenthal, MHA
Linda Sandman, SonHeaven Assisted Living

Opponents: None.

Opening Statement by Sponsor:

REP. EDITH CLARK, HD 88, Sweetgrass, said this bill concerned assisted-living facilities and it was a consumer protection bill. It had three main features. It changes the name from personal care facilities to the more accepted commonly used word "assisted-living facility." It defined three categories or levels of care that these facilities might provide. It defined what type of care and the guidelines for licensure that a facility must offer to provide care in each category, as well as what requirements a resident must meet to enter or to be retained in a facility. The facilities may offer one to three levels of care as long as they met the licensure requirement for each level and tell consumers of their service level ability. Category C is new. It was created for cognitively-impaired individuals in assisted living facilities. This would meet the needs of those with Alzheimer or dementia. **REP. CLARK** gave a brief history. Last session former **SEN. WATERMAN** had a bill to review the need to change the statutes for licensure of personal care facilities. The DPHHS formed a voluntary committee during the interim. It was made up of department staff, legislators, consumer advocates, family members, large, medium, and small size provider association representatives, the board of nursing, and the long term care ombudsman. She said that to say the committee became good friends and worked very hard, would be to say the least about these meetings. This bill was a result of those meetings. In 1995, there were 40 facilities in Montana. Today there was 149, ranging in size from a four-bed to a 182-bed facility. There was a growing need for those facilities with a rapidly aging society. The level of care, needed by these individuals, varied significantly. Some people need a place to live, a reminder to take their medication, or help with bathing. Others needed a secure setting and total care.

Proponents' Testimony:

Mary Dalton, DPHHS, Quality Assurance Division, read and submitted her written testimony. **EXHIBIT (phs31a02)** Included in her testimony was a thorough summary explaining the proposed changes to the statutes of the bill.

Rose Hughes, MT Health Care Association (MHCA), stated she was there to represent MHCA who was in strong support for HB 51. Her association believed the bill was well thought out and necessary.

Ms. Hughes said the current personal care legislation that was a part of Montana law was originally developed in the early 1980's. Many of those provisions were still in effect. It was amended several years ago. The level of care has changed dramatically since then because of the increase in numbers utilizing this care. It was a popular service amongst the elderly.

Betty Beverly, MT Senior Citizen Association (MSCA), stated she was the executive director of MSCA. She said she had sat in on the voluntary committee helping formulate HB 51. She said the bill not only clarified the categories of care and gave detailed guidelines, it protected the consumer. **Ms. Beverly** urged for support and that the bill pass.

Pat Callbeck Harper, AARP-MT, read and submitted her written testimony. **EXHIBIT**(phs31a03)

Sami Butler, Montana Nurses Association, stated she was a registered nurse and represented the MNA. She said they supported this bill and believed it provided the guidelines and safeguards for Montanans.

Casey Blumenthal, Montana Healthcare Association, stated she was the vice-president of extended care services for MHA. She said her group was also involved in the voluntary committee and support this bill. **Ms. Blumenthal** said she echoed the previous sentiments and asked for it to be passed.

{Tape: 1; Side: A}

Linda Sandman, SonHeaven Assisted Living, stated she was the owner and administrator of two personal care homes in Helena. She said she was one of the provider representatives on the committee who was involved in shaping this piece of legislation. She agreed with all previous testimonies that this bill was a good bill. She agreed HB 51 was a consumer protection bill. From a provider's perspective, she said that the bill would bring about some greatly needed changes. **Ms. Sandman** said there had been tremendous growth in the personal care industry, but the providers had been regulated under rules that have become outdated. This bill brought those regulations forward and up to date.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. ROBERT DEPRATU, SD 40, Whitefish, asked for clarification regarding section 5, category B and the number of patients allowed in an assisted living facility. **Ms. Dalton** said that historically that was where the level was set back in the 1980's. Part of the problem at the time, was that those who were in a category B facility were in something much like nursing homes. Assisted living facilities did not have nearly the regulation or oversight that he or she wanted. The number was applied so that developing nursing homes would be regulated in the community. This way people were allowed to age in a place where they could be taken care of. A whole new category was opened up as well for those facilities that were not as regulated.

SEN. DEPRATU said he understood the theory of it but to him it would have to relate to a number. He looked at some of the new assisted living facilities. He said one just opened up in Whitefish that had 44 people. They would soon be putting on another addition, and soon after that, another addition. He thought there would be a logical number that would relate to so that the larger facilities would have the opportunity, in order to have much larger numbers that as patients might become a category B patient, that has been there for several years. This way, those patients would not get moved out of a facility just because the facility had 150 patients, but still only allowed five. **Ms. Dalton** said that area was one of the things the voluntary committee had spent a good couple of days talking about. The committee could not come up with a number. They talked about doing it under a percentage, so that if it were under, for instance, 20 beds, the facility could have five of them be skilled. So if there were 182 beds, you could have 20% of them be skilled. There would be 36 beds that would be the equivalent of a nursing home. **Ms. Dalton** said that sounded like a whole lot more risk than should be taken because these regulations were nothing compared to what they looked at in a nursing home. The group eventually came to the conclusion that there was not a magic number that the group was comfortable with. They did not want the people at risk. The group did some incremental changes in bill HB 51. The biggest one being if medication assistance was needed, the person could move into category A. That would allow more people to stay there and insure the safety there.

SEN. JOHN ESP, SD 13, Big Timber, had a question on page 17, line 11 regarding supplemental payments under the Social Security Act or future amendments to the act, where "there to" was stricken and "to that act" was inserted. **REP. CLARK** did not have an answer for him.

Closing by Sponsor:

REP. EDITH CLARK thanked all those who came in support. She said this bill would benefit those who decide to live in assisted living facilities. It provides reasonable licensure guidelines for facilities that care for a vulnerable part of the population. Passing this bill would show concern and support for more than 3,000 family members and friends and neighbors that reside in assisted living facilities in Montana.

EXECUTIVE ACTION ON HB 51

Motion/Vote: **SEN. DEPRATU** moved that **HB 51 BE CONCURRED IN.**
Motion carried 8-0.

SEN. ESP will carry HB 51.

EXECUTIVE ACTION ON HB 121

Motion/Vote: **SEN. BOHLINGER** moved that **HB 121 BE CONCURRED IN.**
Motion carried 8-0.

SEN. BOHLINGER will carry HB 121.

{Tape: 1; Side: B}

ADJOURNMENT

Adjournment: 3:56 P.M.

SEN. JERRY O'NEIL, Chairman

ANDREA GUSTAFSON, Secretary

JO/AG

EXHIBIT (phs31aad)